IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Appl. No.   : 09/684,174   Confirmation No. 1693
Applicant   : Mark Morelli et al
Filed   : October 6, 2000
TC/A.U.   : 2681
Examiner   : Huy D. Nguyen

Docket No.   : 00-623
Customer No. : 34704

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313

Appeal Brief under 37 CFR 41.37(c)(1)

This Appeal Brief is submitted in support of the
Notice of Appeal which was mailed on July 16, 2004. A
Request for Extension of Time accompanies this Brief to
request extension of the period for filing the Appeal Brief
to expire on January 18, 2005.

(i) *Real party in interest* - The real party in
interest for this Appeal is the assignee of record, namely,
Carrier Corporation.

(ii) *Related appeals and interferences* - There are no
known related appeals or interferences.

(iii) *Status of claims* - The claims are as listed in
the amendment mailed October 27, 2003 and as set forth in
the accompanying Appendix which begins at page 8 of this
paper. Thus claims 1-19 are pending in the case and all
are rejected and appealed.

(iv) **Status of amendments** - There were no amendments filed subsequent to the final rejection from which this Appeal is taken.

(v) **Summary of claimed subject matter** - The invention is drawn to a method for wireless data exchange and control of structural appliances such as heating, ventilation, refrigeration and air conditioning systems. Specifically, the invention relates to a method for remote control of structural appliances 10, comprising the steps of communicating a structural appliance 10 with a server 14 programmed to accept mobile device commands, communicating a mobile device 16 with the server 14, issuing mobile device commands from the mobile device 16 to the server 14, converting the mobile device commands to structural appliance commands, and issuing the structural appliance commands from the server 14 to the structural appliance 10, whereby wireless control of the structural appliance 10 is established (See the Figure for a clear illustration).

As set forth and made clear from the specification and drawings, server 14 is a separate device, remote from appliances 10 and phone 16, which provides server capability between the appliances and the remote located phone 16. Server can be accessed using phone 16 to control and/or access data related to a plurality of appliances 10.

Further, server 14 stores data related to appliances 10 and can be programmed to provide this information to users and/or service technicians who can access server 14 remotely, for monitoring appliance function, preventive maintenance and the like.

2

Server 14 and phone 16 are adapted such that when server 14 and phone 16 are communicated, a list is displayed on phone 16 of appliances which can be controlled using phone 16, and to allow selection of which appliance to control from this list. Server 14 then converts resulting commands to the proper appliance understandable language, and sends the converted commands to the appliance.

(vi) *Grounds of rejection to be reviewed on appeal* - The final rejection of January 16, 2004 contains 2 grounds of rejection of the claims and these grounds of rejection are both presented for review. The grounds are as follows:

(1) a rejection of claims 1-8, 11-17 and 10 under 35 USC 102(e) based upon U.S. Patent Number 6,434,403 to Ausems et al. (hereafter Ausems) and

(2) a rejection of claims 9-10 and 18 under 35 USC 103(a) based upon Ausems.

(vii) *Argument* -

Ground 1

The first ground of rejection is based upon the Examiner's rejection of claims 1-8, 11-17 and 19 as anticipated by Ausems. For reasons set forth herein, this rejection is in error and should be reversed.

a. Ausems does not teach the server of claim 1

Ausems is drawn to a personal digital assistant with wireless telephone. The patent contains 9 sheets of drawing and 10 columns of text. None of the drawings is relevant to the subject matter of claim 1, and the portions of the text which are relevant are contained in

approximately 3 paragraphs. Basically, Ausems teaches that the augmented PDA taught therein can be used to control a remote device by transmitting signals to the device via wireless transceiver or receiver. Ausems teaches that each device to be controlled is equipped with such a transceiver or receiver (See Ausems column 9 lines 10-16). Ausems teaches absolutely nothing else which is relevant to the claims of the present application. To be a proper rejection under 35 USC 102(e), Ausems must disclose each and every limitation of the rejected claims. Ausems fails to do so.

The receiver or transceiver of Ausems is clearly not a server as set forth in the present claims and specification. The Examiner states in the final action that the claims broadly claim a server, but nevertheless they do claim a server. The specification makes clear that, among other things, the server receives commands from the phone, converts them to the appropriate language for the selected structural appliance (which can be one of many controlled by the server), and transmits the converted commands to the appliance. Feedback from the appliance is received by the server, converted to proper language for the phone, and sent to the phone.

Ausems teaches none of this subject matter, which is not surprising since the clear thrust of the Ausems disclosure is to the details of the augmented PDA disclosed therein. Ausems is completely silent as to a server which receives, translates and passes on information. While the claim term "server" may be interpreted broadly by the Examiner, the term does nevertheless have meaning to a person of ordinary skill in the art, and it is submitted

that the transceiver or receiver briefly disclosed by
Ausems does not fall within this meaning. A receiver is a
receiver, not a server, and Ausems does not disclose or
suggest that the disclosed receiver could or should perform
the functions of a server as set forth in the present
application. For example, nothing in Ausems suggests that
the receiver should be adapted to store a history of
operating parameters of the appliance to be controlled, or
a list of parameters for a plurality of different
appliances to be accessed, or a plurality of different
conversion files to convert to the appropriate machine
instructions for different types of structural appliances.
These are examples only of the significant differences
between the server of claim 1 and the teaching of Ausems.

Based upon the foregoing, it is respectfully submitted
that the examiner is in error in holding that Ausems
anticipates the subject matter of independent claim 1, and
reversal of this rejection is earnestly solicited.

b. Ausems fails to disclose subject matter of claim 3

Claim 3 of the present application calls for storing
of information at one of the appliance, server or gateway,
and providing that information to the controlling phone.
The Examiner states that the system of Ausems would do this
inherently. It is respectfully submitted that this
reasoning is in error and not supported by Ausems. The
total disclosure in Ausems as to this feature is that the
device may be configured to transmit status information
back to the PDA telephone. Status information can be
transmitted live, without any storing of any information,
and Ausems does not disclose or even remotely suggest the
storing of any such information.

5

Further, this subject matter is advantageous in that this step allows technicians to perform remote diagnostic and preventative maintenance based upon a data history of the appliance. This subject matter also allows the user to track relevant information, for example operating times and/or energy use of the appliance.

The other dependent claims rejected under this ground of rejection all depend directly or indirectly from claim 1, and the rejection of these claims should be reversed for reasons stated above.

Ground 2

This ground of rejection is drawn to dependent claims 9 and 10 which the Examiner has rejected as obvious based upon Ausems and also relying upon official notice. The error in connection with this ground of rejection is based upon the underlying claim 1 rejection as set forth above, specifically, Ausems does not disclose or suggest the server of claim 1. For this reason, reversal of this ground of rejection is also earnestly solicited.

(viii) *Claims appendix* - Attached hereto is a Claims appendix containing all claims in the application and which form the basis for this appeal.

(ix) *Conclusion* - For the reasons set forth above, it is respectfully submitted that the subject matter of the claims of the present application is neither disclosed nor suggested by any art of record, and particularly not by Ausems, and therefore that the rejections based thereon are in error and should be reversed.
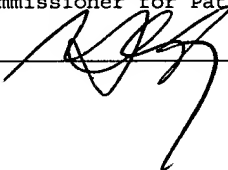
Please charge the fee of $500 for filing this Appeal Brief, as well as any other fee or fee deficiency which may be due, to Deposit Account 02-0184.

Respectfully submitted,

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I, George A. Coury, hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Mail Stop Appeal Brief-Patents "Commissioner for Patents" P.O. Box 1450, Alexandria, VA 22313-1450 on January 18, 2005

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Claims Appendix

1. A method for remote control of structural appliances, comprising the steps of:

communicating a structural appliance with a server programmed to accept mobile device commands;

communicating a mobile device with said server;

issuing said mobile device commands from said mobile device to said server;

converting said mobile device commands to structural appliance commands; and

issuing said structural appliance commands from said server to said structural appliance, whereby wireless control of said structural appliance is established.

2. The method according to claim 1, wherein said server is communicated with said structural appliance through a gateway.

3. The method according to claim 2, further comprising the steps of:

storing structural appliance information at one of said structural appliance, said gateway and said server; and

transmitting said structural appliance information from said server to said mobile device.

4. The method according to claim 3, wherein said structural appliance information is provided in structural appliance format to said gateway, wherein said gateway converts said structural appliance format to mobile device

format, and wherein said server transmits said structural appliance information to said mobile device in said mobile device format.

5. The method according to claim 3, wherein said structural appliance information comprises at least one type of information selected from the group consisting of diagnostic information, maintenance information, operating parameters, environmental information and combinations thereof.

6. The method according to claim 1, wherein said structural appliance is selected from the group consisting of heating, ventilation, air conditioning, refrigeration, building control and elevator appliances.

7. The method according to claim 1, wherein said mobile device is a web enabled device.

8. The method according to claim 7, wherein said mobile device is communicated with said server utilizing wireless application protocol.

9. The method according to claim 1, wherein said mobile device and said structural appliance are communicated with said server by a global satellite messaging network.

10. The method according to claim 9, wherein said server is communicated with said global satellite messaging network by a global computer network.

11. The method according to claim 10, wherein said mobile device issues said mobile device commands in wireless application protocol, and further comprising the step of converting said wireless application protocol to structural appliance protocol commands.

12. The method according to claim 10, wherein said server is adapted to display a plurality of options on said mobile device, whereby a user of said mobile device can select from said plurality of options so as to issue said mobile device commands.

13. The method according to claim 1, wherein said mobile device is communicated with said server from a remote location.

14. The method according to claim 13, wherein said server is a wireless-accessible server.

15. A method for allowing wireless control of structural appliances, comprising the steps of:
    communicating a structural appliance with a server;
    programming said server to accept mobile device commands;
    converting said mobile device commands into structural appliance commands; and
    issuing said structural appliance commands to said structural appliance.

16. A method for remote control of an HVAC system, comprising the steps of:

communicating a HVAC system with a server programmed to accept mobile device commands;

communicating a mobile device with said server;

issuing said mobile device commands from said mobile device to said server;

converting said mobile device commands to HVAC system commands; and

issuing said HVAC system commands from said server to said HVAC system, whereby wireless control of said HVAC system is established.

17. The method according to claim 16, wherein said HVAC system is a non-central HVAC system.

18. The method according to claim 16, wherein said mobile device is operated by an energy provider and wherein said HVAC system comprises a plurality of HVAC systems of customers of said energy provider.

19. The method of claim 1, wherein said step of communicating said structural appliance with said server comprises communicating a plurality of structural appliances with said server, and wherein said step of communicating said mobile device with said server includes presenting a selection of said plurality of structural appliances at said mobile device.